

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

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EDWARD ANTHONY,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 14-680

Special Master Christian J. Moran

Filed: October 28, 2014

Stipulation; influenza (“flu”) vaccine; shoulder injury related to vaccine administration; SIRVA

Richard Gage, Richard Gage, P.C., Cheyenne, WY, for petitioner;
Gordon E. Shemin, United States Dep’t of Justice, Washington, DC, for respondent.

UNPUBLISHED RULING FINDING ENTITLEMENT¹

On July 30, 2014, Edward Anthony filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. § 300aa—10 through 34 (2006), alleging that he suffered a chronic left shoulder injury related to his receipt of an influenza (“flu”) vaccination in his left shoulder on October 31, 2011.

In her Rule 4(c) report, respondent stated that she “recommends that compensation be awarded.” Resp’t’s Rep’t, filed Oct. 28, 2014, at 1. Respondent added that the Division of Vaccine Injury Compensation, U.S. Department of Health and Human Services, has reviewed the facts of this case and has concluded that the alleged injury, lasting for more than six months, “is consistent with a shoulder injury related to vaccine administration (‘SIRVA’),” and thus that

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

“petitioner has satisfied all legal prerequisites for compensation under the Act.”
Id. at 4 (citations omitted).

Special masters may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. 42 U.S.C. § 300aa-13; Vaccine Rule 8(d). Based upon a review of the record as a whole, the undersigned finds that petitioner has established that he is entitled to compensation for his injury.

Accordingly, Mr. Anthony is entitled to compensation. The process for quantifying the amount of damages to which Mr. Anthony is entitled will be discussed at the status conference previously set for **Wednesday, November 5, 2014 at 3:30 P.M. Eastern Time.**²

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6353.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² In anticipation of the status conference, petitioner shall begin gathering the materials respondent requests in her Rule 4 Report. Resp’t’s Rep’t at 4-5.